

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
TITLE 23, DIVISION 3, CHAPTER 16, CCR**

INITIAL STATEMENT OF REASONS

PROBLEM, REQUIREMENT, OR OTHER CONDITION ADDRESSED

These proposed regulations amend section 2611 in Title 23 of the California Code of Regulations (CCR). These regulatory changes are needed in order to clearly define the term “Interstitial Liquid Level Measurement” as used in Health and Safety Code (HSC) section 25290.1.

General Statement of Reasons

California’s Legislature enacted Chapter 6.7 of the HSC in 1984. Since then, it has amended Chapter 6.7 in response to federal mandates relating to underground storage tanks (USTs), or to new information regarding changing industry practices and/or the performance of USTs meeting then current UST regulatory standards in California. In 2002, in response to findings of widespread vapor releases from USTs in California, the Legislature passed Assembly Bill (AB) 2481 (stats. 2002, ch. 999). AB 2481 required the use of improved continuous monitoring methods on newly-installed USTs. Specifically, continuous monitoring methods must now maintain the interstitial space under vacuum or pressure. Alternatively, AB 2481 allows for the use of interstitial liquid level measurement methods. AB 2481 also set forth a performance standard that “a breach in the primary or the secondary is detected before the liquid- or vapor-phase of the hazardous substance stored in the underground storage tank is released into the environment.”¹

Although vacuum and pressure continuous monitoring methods have been reliably used for decades in Europe, they are relatively new to California. Due to concerns about availability of approved vacuum or pressure methods, the Legislature passed Assembly Bill 1702 (stats. 2003, ch.42), postponing the effective date for this requirement to July 1, 2004. Recently there has been debate about the meaning of the term “interstitial liquid level measurement” (ILLM) method as specified in HSC section 25290.1(e), added by AB 2481. Debate has centered around which monitoring methods fit within the intended use of the term ILLM. The proposed regulations will clearly define the term “interstitial liquid level measurement method” as used in section 25290.1(e) of the Health and Safety Code. Having a clear definition of this term in regulations will promote consistent application of this requirement by local regulatory agencies throughout the state. It will also forestall the installation of ILLM methods that do not meet the proposed regulatory definition, thus helping to ensure that the environment is adequately protected from releases of hazardous substances from UST systems. This regulation would not impact existing UST facilities, and would not affect the design or future applicability of the hydrostatic monitoring systems that have been used for many years on tanks.

¹ HSC, Ch. 6.7, § 25290.1, subd. (e)

EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Based on careful review of the federal UST statutes and regulations, the SWRCB has determined that the proposed regulations do not conflict with, or duplicate, federal rules. The SWRCB proposes to adopt these regulations, which are different from federal regulations, because HSC section 25290.1 requires UST construction and monitoring standards that are far more stringent than federal regulations.

ALTERNATIVES CONSIDERED

The SWRCB has considered alternatives to these regulations within the scope allowed by HSC section 25290.1. The SWRCB has determined that no alternative to these regulations would be more effective or as effective and less burdensome to the affected industry, local governments, and state agencies than the proposed regulations.

DETAILED STATEMENT OF REASONS

The specific reason for each amended, moved, renumbered, added, or deleted regulation is summarized below.

Section 2611. Additional Definitions

The definition of “Interstitial Liquid Level Measurement” Method (as the term is used in section 25290.1 of the Health and Safety Code) or “Hydrostatic Monitoring” Method has been added in order to clarify the performance standards that such systems must meet. Significantly, the proposed definition would require that the pressure maintained within the interstitial space is greater than operating conditions within the primary containment.

Interstitial Liquid Level Measurement (ILLM) methods that do not maintain the interstice at greater pressure than that found within the primary containment do not offer the same level of environmental protection or reliable leak detection as the brine tanks envisioned when AB 2481 was written. If there were simultaneous breaches in the primary and secondary containment of pressurized piping and if the rate of flow out of the primary containment were similar to the rate of flow out of the secondary containment, there might not be enough volumetric change of liquid in the reservoir for the leak to be detected. This leak scenario could continue without detection even under normal system operation, if the leak rates in both primary and secondary containment closely matched the operating parameters of the system. Such methods would not fulfill the performance standard (stated in HSC section 25290.1) that “a breach in the primary or secondary containment is detected before the liquid- or vapor-phase of the hazardous substance stored in the underground storage tank is released into the environment.” Nevertheless, because the methods rely on interstitial liquids for monitoring, manufacturers have argued that they are acceptable pursuant to AB 2481. This has led to confusion regarding the regulatory status of these methods. The proposed definition is intended to alleviate this confusion.